of a liberal construction.[5] In the face of these reasons for such legislation the conclusion of the court in the case under discussion presents this anomalous situation. The plaintiff, had he brought suit in 1899, would have been barred by the statutory limitation of his right of action; but by delaying for thirteen years longer, he finds all disabilities removed. Moreover, as Judge Head points out in his dissenting opinion, this conclusion practically allows the creation of an irredeemable ground rent, a thing utterly forbidden by the Act of 1885.[6]

In the course of their opinion the court states that ground rents are not real estate, arguing that this is shown by the enactment of separate statutes relating to ground rents, whereas had they been real estate the statutes of limitation[7] would have applied to them. Many Pennsylvania decisions have taken the view that ground rents are realty.[8] Yet the owners of ground rents and the owners of land do not hold estates of the same nature. On the contrary, they are separate and distinct estates,[9] one being a corporeal inheritance in fee and the other an incorporeal inheritance in fee.[10] This was, perhaps, sufficient to cause the legislature to distinguish between the two, though both may be regarded as real estate, legally speaking.

However, the decision is conclusive on the requirement that the period of limitation immediately precede the bringing of suit, a matter which it is well to have definitely settled in the law.

C. H. S., Jr.

INSURANCE—WHAT IS AN ACCIDENT?—Plaintiff, while washing clothes in a tub, was splashed in the eye. Thereupon her eye became inflamed and subsequently she lost the sight of it. Upon additional evidence submitted, the jury found that her sight was destroyed by the splashing of the water, it being laden with gonorrheal germs. The court allowed a recovery on an accident insurance policy. Upon appeal, it being assigned for error, *inter alia,* that the plaintiff's infection could not be properly classed as the effect of accident, the judgment of the lower court was affirmed.[1]

Although the courts have in many cases been called upon to decide whether injury from particular causes was or was not accidental, no generally satisfactory definition of an accident has yet been laid down. The United States Supreme Court has defined it

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[5] See the preamble to the Act of 1885, abolishing irredeemable ground rents: "Whereas, The policy of this Commonwealth has always been to encourage the free transmission of real estate and to remove restrictions on alienations," etc.

[6] Act of June 24, 1885, P. L. 161.

[7] Act of March 26, 1785, 2 Sm. Laws, 299, sec. 2.

[8] Cadwalader on Ground Rents in Pa., sec. 190, and cases cited.

[9] McQuigg v. Morton, 39 Pa. 31.

[10] Cadwalader on Ground Rents, sec. 230.

[1] Sullivan v. Brotherhood, 133 N. W. 486 (Mich., 1911).

as anything "happening by chance; unexpectedly taking place; not according to the usual course of things. If a result is such as follows from ordinary means, voluntarily employed, in a not unusual or unexpected way, it cannot be called a result effected by accidental means. But if, in the act which precedes the injury, something unforeseen, unexpected, unusual occurs which produces the injury, then the injury has resulted through accidental means."[2] "The word is descriptive of means which produce effects which are not their natural or probable consequences. * * * An effect which is not the natural or probable consequence of the means which produced it, an effect which does not ordinarily follow and cannot be reasonably anticipated from the use of those means, an effect which the actor did not intend to produce, and which he cannot be charged (under the maxim that one is presumed to intend the natural and probable consequences of his act) with the design of producing, is produced by accidental means."[3]

The typical case, on which practically all jurisdictions are agreed, is where the act causing the injury is unintentional or involuntary on the part of the insured, or out of the usual course of things. Examples of this class of case are: Blood-poisoning, resulting from the lodging of a fish bone in the intestines;[4] a knife cut, self-inflicted while trimming a corn;[5] stumbling while running and falling against an engine;[6] blood-poisoning from an abrasion by a new shoe, of the skin of a toe;[7] death caused by a piece of steak passing into and lodging in the windpipe.[8]

The difficulty and confusion exists where the acts of the insured are purely voluntary and intentional, but the result is out of the usual course of things. Where a bicycle rider was injured by the action of a muscle rubbing against his appendix, no recovery was allowed, the court declaring that the insured planned for and deliberately entered upon the project; that it was carried out precisely as he intended; and that there was no evidence that he did anything other than what he fully intended to do; the result of such ride, while extraordinary, in no manner proves that it was accidental.[9] A like conclusion was reached in a case where the insured, in reaching over a chair to close a shutter, suffered a hemorrhage,[10] the court adding that the unfortunate circumstance was the natural and direct effect of acts intenionally done. On the same ground no recovery was allowed for rupturing a blood vessel in suddenly jumping and

[2] Accident Ass'n. v. Barry, 131 U. S. 100 (1888).
[3] Western Ass'n. v. Smith, 85 Fed. 401 (1898).
[4] Appel v. Ins. Co., 86 N. Y. App. 83 (1903).
[5] Nax v. Ins. Co., 130 Fed. 985 (1904).
[6] Ins. Co. v. Osborne, 90 Ala. 201 (1889).
[7] Western Assn. v. Smith, *supra.*
[8] Accident Co. v. Reigart, 94 Ky. 547 (1893).
[9] Appel v. Ins. Co., *supra.*
[10] Feder v. Ass'n., 107 Ia. 538 (1899).

running from a stationary train;[11] a hemorrhage resulting in an attempt to extricate one's arms entangled in a nightgown over his head.[12] But opposite conclusions were reached in analogous cases, as a result of common-sense reasoning on the part of the juries, with proper instructions from the courts. In swinging Indian clubs, the insured ruptured a blood vessel, and recovery on the policy was allowed,[13] the court charging: "that if the deceased used the clubs for exercise in the ordinary way, and without the interference of any unusual circumstances, the injury was not accidental; but if there occurred any unforeseen accident or involuntary movement of the body (such as a slight twitch or turn) which in connection with the use of the clubs brought about the injury, then such means were accidental, and within the terms of the policy." On the same principle, recovery was had for blood-poisoning caused by the insured intentionally giving himself a hypodermic injecton;[14] and for the rupturing of the tympanum, following a dive into a swimming pool.[15]

The fair inference from the Pennsylvania cases is that the result determines whether the injury was accidental. "An accident is an event which takes place without one's foresight or expectation; an event which proceeds from an unknown cause, or is an unusual effect of a known cause, and, therefore, not expected."[16]

M. G.

NEGLIGENCE—THE "RULE OF THE ROAD."—A recent case[1] raised the question of the rights and liabilities of drivers of vehicles on public streets. A wagon was proceeding along the left-hand side of a street, twenty feet wide. On the same side of the street there was a high board fence. The plaintiff, a boy of eleven years, was coming up behind the wagon on a bicycle, and started to pass between it and the fence on the left. As he was even with the front of the wagon, the horses swerved towards him; and before the driver could get them back, they had thrown the boy against the fence. The driver had not known that the boy was back of him, or that he was attempting to pass. The court affirmed a judgment for the plaintiff, upholding the trial judge, who had allowed the jury to say whether or not the conduct of the driver was negligent.

There were two points decided in the case. In the first place, the court had to consider whether negligence can be imputed from a violation of the so-called "Rule of the Road." The question was answered in the negative. This, it will be seen, is representative of

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[11] Southard v. Ins. Co., 34 Conn. 574 (1868).

[12] Smouse v. Ass'n., 118 Ia. 436 (1902).

[13] Lovelace v. Ass'n., 126 Mo. 104 (1894).

[14] Bailey v. Casualty Co., 8 N. Y. App. 127 (1896).

[15] Rodey v. Ins. Co., 3 N. M. 316 (1886).

[16] Ins. Co. v. Burrough, 69 Pa. 43 (1871); Pollock v. Ass'n., 102 Pa. 230 (1883).

[1] Hackitt v. Alamito Sanitary Dairy Co., 133 N. W. 227 (Neb., 1911).